

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
CASE NO. 22-cr-80144-RS-1

UNITED STATES OF AMERICA, Miami, Florida
Plaintiff, November 14, 2022
vs. 12:00 p.m. to 12:52 p.m.
JOFF STENN WROY PHILOSSAINT, Courtroom 202B
Defendant. (Pages 1 to 35)

CHANGE OF PLEA
BEFORE THE HONORABLE RODNEY SMITH,
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT: MARC OSBORNE, ESQ.
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FOR THE DEFENDANT: IAN JEREMY GOLDSTEIN, ESQ.
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1 (The following proceedings were held at 12:00 p.m.)

2 THE COURTROOM DEPUTY: United States of America vs.
3 Joff Stenn Wroy Philossaint. The case number is
4 22-cr-80144-Smith.

5 Counsel, please state your appearances for the record.

6 MR. OSBORNE: Good afternoon, Your Honor. Marc
7 Osborne on behalf of the United States.

8 MR. GOLDSTEIN: Good afternoon, Your Honor. Ian
9 Goldstein on behalf of Mr. Philossaint.

10 THE COURT: All right. Good afternoon, as well.

11 MR. GOLDSTEIN: He's in custody. He's here. I saw
12 him upstairs.

13 THE COURTROOM DEPUTY: Okay.

14 (Pause in proceedings.)

15 THE COURTROOM DEPUTY: Should I swear the Defendant?

16 THE COURT: Sure.

17 THE COURTROOM DEPUTY: Okay.

18 Mr. Philossaint, please stand and raise your right
19 hand.

20 (The Defendant was sworn.)

21 THE DEFENDANT: Yes.

22 THE COURTROOM DEPUTY: Thank you. You may be seated.

23 THE COURT: All right. Do you understand that you're
24 now under oath and if you answer any of my questions falsely,
25 all your answers may be used against you in another prosecution

1 for perjury, or for making a false statement, sir?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: All right. What is your full name?

4 THE DEFENDANT: Joff Stenn Wroy Philossaint.

5 THE COURT: All right. And have you been known by any
6 other name or alias?

7 THE DEFENDANT: No.

8 THE COURT: And where were you born?

9 THE DEFENDANT: In Haiti.

10 THE COURT: All right. And when did you come to the
11 United States?

12 THE DEFENDANT: January 2006 -- '16, yeah.

13 THE COURT: All right. And what is your date of birth
14 and age?

15 THE DEFENDANT: March 15, 1990.

16 THE COURT: How old are you?

17 THE DEFENDANT: 32.

18 THE COURT: How far did you go in school and where?

19 THE DEFENDANT: I have a master's degree in political
20 since from Haiti.

21 THE COURT: All right. And are you a citizen or a
22 resident?

23 THE DEFENDANT: I'm a U.S. citizen.

24 THE COURT: When did you become a citizen?

25 THE DEFENDANT: I think it was beginning of 2021.

1 THE COURT: All right. And have you ever been treated
2 for any mental illness or addiction to alcohol or narcotic
3 drugs of any kind?

4 THE DEFENDANT: No, Your Honor.

5 THE COURT: Are you currently under the influence of
6 any prescription drug, narcotic medication or alcoholic
7 beverage of any kind?

8 THE DEFENDANT: No.

9 THE COURT: Have you taken any drugs or medication or
10 alcohol in the last 48 hours?

11 THE DEFENDANT: No.

12 THE COURT: Are you currently under the care or
13 treatment of any physician, psychologist or psychiatrist?

14 THE DEFENDANT: No, Your Honor.

15 THE COURT: Do you have a physical or mental condition
16 or illness that would prevent you from understanding what is
17 happening in court today?

18 THE DEFENDANT: No.

19 THE COURT: Do you understand everything that I'm
20 saying and everything that is going on here today?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Mr. Osborne, do you agree to the
23 competency of your client -- I'm sorry.

24 Mr. Goldstein, are you confident in your client
25 entering a plea?

1 MR. GOLDSTEIN: Yes, sir.

2 THE COURT: All right. And have you received a copy
3 of the Indictment, Mr. Philossaint? That is the written
4 charges pending against you, sir.

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: And have you fully discussed those charges
7 and the case in general with your attorney, Mr. Goldstein?

8 THE DEFENDANT: Yes.

9 THE COURT: And have you discussed the possible
10 defense strategy with your attorney as well?

11 THE DEFENDANT: Yes.

12 THE COURT: And are you fully satisfied with the
13 counsel, representation and advice given to you in this case by
14 your attorney, Mr. Goldstein?

15 THE DEFENDANT: Yes, so far, Your Honor.

16 THE COURT: All right. And is there anything
17 concerning your representation that you're not satisfied with?

18 THE DEFENDANT: No.

19 THE COURT: All right. Because you said so far. Is
20 there anything else that gives reason that you would not be
21 satisfied?

22 THE DEFENDANT: I said, Yes, so far, because, you
23 know, it's an ongoing process. But yes, everything he has done
24 so far is good.

25 THE COURT: All right. Fair enough.

1 If that's it, he's pleading guilty to which count?

2 MR. OSBORNE: Counts 1 through 3, Your Honor.

3 THE COURT: Counts 1, 2 and 3.

4 Count 1 -- Count 1 charges you with conspiracy to
5 commit wire fraud. Count 2 is money laundering conspiracy.
6 Count 3 -- let me make sure I got this right -- conspiracy to
7 commit money laundering.

8 THE DEFENDANT: Yes.

9 THE COURT: Do you understand those charges?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: All right. I'll ask, for the record, the
12 Government would set forth the elements of Counts 1, 2 and 3
13 respectively.

14 MR. OSBORNE: Yes, Your Honor. Count 1 charges
15 conspiracy to commit wire fraud. The elements are that two or
16 more people in some way or manner agreed to accomplish a common
17 and unlawful plan to commit wire fraud as set forth in the
18 Indictment; and second, that the Defendant, knowing the
19 unlawful purpose of the plan, willfully joined in it.

20 As I say, Your Honor, the object of the conspiracy was
21 to commit wire fraud. The Defendant's not pleading guilty to
22 that offense, but it's the object of the conspiracy.

23 In order to prove that a person committed wire fraud,
24 the Government would have to prove that the Defendant knowingly
25 devised or participated in a scheme to defraud by means of

1 false or fraudulent pretenses, representations or promises;
2 second, that the false and fraudulent pretenses,
3 representations and promises were about a material fact; third,
4 that the Defendant acted with the intent to defraud; and
5 fourth, that the Defendant transmitted by wire a communication
6 in interstate commerce to help carry out the scheme.

7 Count 2 charges the Defendant with conspiring to
8 launder money. And the elements of that offense are, first,
9 that two or more people in some way or manner agreed to
10 accomplish a common and unlawful plan to launder money as
11 charged in the Indictment; and second, that the Defendant,
12 knowing the unlawful purpose of the plan, voluntarily joined in
13 it.

14 In Count 2, Your Honor, the object of the conspiracy
15 is violation of 18 USC 1956a(1)(B)(1). That's one of the
16 various types of money laundering prohibited by law.

17 The elements of that offense are, first, that the
18 Defendant knowingly conducted a financial transaction; second,
19 that the Defendant knew that the transaction was made with
20 proceeds of some form of unlawful activity; third, that the
21 money was, in fact, proceeds of specified unlawful activity --
22 which in this case is wire fraud; and fourth, that the
23 transaction was designed to conceal or disguise the nature,
24 location, source, ownership or control of the proceeds.

25 Count 3 also charges the Defendant with a conspiracy

1 to commit money laundering, Your Honor, so the elements of the
2 offense are the same. The objects of the conspiracy are
3 different. There is two -- two objects of the conspiracy.

4 The first one is a violation of Section
5 1956a(2) (A) (1). The elements of that offense are that the
6 Defendant knowingly -- or they would be if the Defendant were
7 charged with a substantive offense -- would be that the
8 Defendant knowingly transmitted or transferred money from a
9 place in the United States to or through a place outside the
10 United States; second, that the Defendant knew that the money
11 was proceeds of unlawful activity; third, that the money was,
12 in fact, proceeds of specified unlawful activity --
13 specifically in this case, wire fraud; and fourth, that the --
14 the transfer or transmittal was designed to conceal or disguise
15 the nature, location, source, ownership or control of the
16 proceeds.

17 The second object of the conspiracy charged in Count 3
18 is a violation of 18 United States Code Section 1957. The
19 elements of that offense would be that, first, the Defendant
20 knowingly engaged in a monetary transaction; second, that the
21 Defendant knew that the transaction involved proceeds of some
22 form of criminal activity; third, that the transaction involved
23 money -- in this case, of a value of greater than \$10,000;
24 fourth, that the money was, in fact, proceeds of specified
25 unlawful activity -- in this case, wire fraud.

1 THE COURT: All right.

2 Mr. Goldstein, are you satisfied that that was a
3 correct statement of the elements stated by the prosecutor?

4 MR. GOLDSTEIN: Yes, Your Honor.

5 THE COURT: Also, would you state for the record the
6 steps that you have taken to familiarize your client with the
7 Indictment, the charges against him, and specifically Counts 1,
8 2 and 3 of the Indictment and its elements, sir?

9 MR. GOLDSTEIN: Yes, Your Honor. We have reviewed
10 both the original Indictment, as well as the superseding
11 Indictment. We reviewed a lot of the -- not all of, but a lot
12 of the discovery, particularly the most damaging parts. We
13 have reviewed the sentencing guidelines, discussed how they
14 would apply to Mr. Philossaint whether he were to go to trial
15 or to plead guilty.

16 And based upon our conversations, he had decided to
17 plead guilty to Counts, 1, 2 and 3.

18 THE COURT: All right.

19 And is that your understanding, Mr. Philossaint?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Now, do you understand that if you went to
22 trial, the Government would have to prove beyond a reasonable
23 doubt those elements just stated by the prosecutor?

24 THE DEFENDANT: Yes, Your Honor, but I know what I
25 did, and I am willing to plead guilty to those charges. And I

1 don't want the Government to spend more money on research and
2 stuff like that.

3 THE COURT: All right.

4 Is that the forfeiture allegations in this Indictment
5 as well?

6 MR. OSBORNE: Yes, Your Honor.

7 THE COURT: All right.

8 Mr. Philossaint, do you understand that the Government
9 is seeking to forfeit, or take from you, the property listed in
10 the Indictment or any property derived from or used in or
11 traceable to the crimes alleged in the Indictment?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: And do you agree to forfeit to the
14 Government that property identified in the forfeiture
15 allegations of the Indictment?

16 THE DEFENDANT: I don't think there is any property in
17 this Indictment.

18 THE COURT: Yes. But whether it is or not, I want to
19 know: Do you agree to forfeit to the Government any property
20 identified in the forfeiture allegation?

21 THE DEFENDANT: Oh, yes, Your Honor. If there is any
22 property that I have that's derived from the illegal activity,
23 yes, they can get it.

24 THE COURT: All right.

25 And also, there is no written plea agreement, correct?

1 MR. GOLDSTEIN: Correct.

2 THE COURT: The Defendant would be given -- for
3 acceptance of responsibility, they would be moving pursuant to
4 Section 3E1.1?

5 MR. GOLDSTEIN: Yes, Your Honor.

6 THE COURT: All right.

7 Now, would the Government please advise me of the
8 maximum penalty provided by the law and any mandatory minimum
9 penalty as well?

10 MR. OSBORNE: Yes, Your Honor. There is no mandatory
11 minimum penalty. For each of the three counts, the maximum
12 penalty provided by law is up to 20 years in prison. For
13 Count 1, there is a maximum fine of \$250,000. Counts 2 and 3,
14 the maximum fine is either \$500,000 or twice the amount of the
15 proceeds involved in the offense, whichever is greater.

16 In addition to that, all the counts carry a maximum
17 penalty of three years of supervised release.

18 THE COURT: All right.

19 Mr. Philossaint, the United States Sentencing
20 Commission has issued guidelines for judges to follow in terms
21 of sentencing in a criminal case; and have you and your
22 attorney had the opportunity to talk about how the sentencing
23 guidelines may apply to the charge that you're prepared to
24 plead guilty to; that is, Counts 1, 2 and 3 of the Indictment?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: And do you understand that your sentence
2 will be calculated pursuant to the sentencing guidelines, which
3 assigns a score to your offense and to your criminal history?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Do you understand any estimate of the
6 sentence given to you by your attorneys or others is only an
7 estimate and that I will not determine the sentence until I
8 have reviewed a presentence investigation report?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Do you understand that you will not be
11 allowed to withdraw your plea of guilty solely as a result of
12 the sentence that you receive?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Do you understand that under some
15 circumstances, you or the Government may have the right to
16 appeal the sentence that I impose?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Do you understand that I can depart or
19 vary from the sentencing guidelines and give you a sentence
20 that is higher or lower than the sentence given by the
21 sentencing guidelines?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Do you understand that if I depart or vary
24 upward from the sentencing guideline, you may appeal the
25 sentence?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Do you understand that if I depart or vary
3 downward from the sentencing guidelines, you or the Government
4 may appeal the sentence?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Has it been explained to you that parole
7 has been abolished in the federal system? So if you were
8 sentenced to prison, Mr. Philossaint, you would not be released
9 early on parole, sir.

10 THE DEFENDANT: Yes.

11 THE COURT: All right. Has anyone made any other or
12 different promise or assurance of any kind to you in an effort
13 to induce you to plead guilty in this case?

14 THE DEFENDANT: No, Your Honor.

15 THE COURT: Has anyone attempted in any way to force
16 you to plead guilty in this case?

17 THE DEFENDANT: No, Your Honor.

18 THE COURT: Has your lawyer done everything that you
19 have asked him to do regarding your case?

20 THE DEFENDANT: Yes, so far.

21 THE COURT: Is there anything that has not been done
22 in your case?

23 THE DEFENDANT: Only the Count 4 that he's working on
24 to go to trial. That's it, Your Honor.

25 THE COURT: Yeah, but you're not pleading guilty to

1 Count 4.

2 THE DEFENDANT: No.

3 THE COURT: All right. So like I said, are you saying
4 that everything has been completed and there's nothing left to
5 view; is that correct?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And do you understand that the offense for
8 which you're pleading guilty is a felony offense? That is, if
9 your plea is accepted, you will be adjudged guilty of that
10 offense and that adjudication may deprive you of valuable civil
11 rights.

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: It includes the right to vote, the right
14 to hold office, the right to serve on a jury and the right to
15 possess any type of firearm.

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Now, do you understand that if you
18 committed a crime from where you're pleading guilty before
19 you're naturalized, the court may initiate denaturalization
20 proceedings against you?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: All right. Also, regardless of any
23 discussion or advice that you had or did not have with your
24 attorney or anyone else, are you pleading guilty of your own
25 free will because you are, in fact, guilty, sir?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: And by pleading guilty, Mr. Joff Stenn
3 Wroy Philossaint, I am now going to advise you of your
4 constitutional rights that you are waiving, or giving up, by
5 entering a plea of guilty. They are as follows, so please
6 listen carefully as well:

7 Do you understand that you have a right to plead not
8 guilty to any of the offenses charged against you and to
9 persist in a plea through a trial?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Do you understand that if you plead not
12 guilty, you would then have a right to have a trial by jury?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Furthermore, do you understand that at a
15 trial, you would be presumed to be innocent and the Government
16 would have to prove that you are guilty of and to the exclusion
17 beyond every reasonable doubt?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: You would have the right to the assistance
20 of effective and competent counsel for your defense at trial
21 and at every other proceeding in this case. And that includes,
22 if you need it, the right to have counsel appointed for you if
23 you cannot afford to hire a lawyer on your own.

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: You would have the right to see and hear

1 all of the witnesses and the evidence brought against you.

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: You would have the right to have the
4 witnesses and evidence confronted and cross-examined in your
5 defense.

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: You would have the right to the issuance
8 of subpoenas, or the compulsory process, to compel the
9 attendance of witnesses and evidence for the promotion of your
10 defense. Do you understand that, sir?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: You also have the right to decline to
13 testify, unless you voluntarily elected to do so in your
14 defense. And if you decided not to testify, your silence could
15 not be used against you in any way and you would keep the
16 presumption of innocence.

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: If you are convicted, you would have the
19 right to appeal your conviction. Do you understand that as
20 well?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Now, do you first understand, sir, if you
23 enter a plea of guilty, there will be no trial and that you
24 would've waived, or given up, your right to a trial, as well as
25 the other rights associated with a trial that I just described?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: All right.

3 Would the Government please set forth the factual
4 basis with regard to Count 1, 2 and 3?

5 MR. OSBORNE: Yes, Your Honor. The Government and
6 Mr. Philossaint and his attorney have signed a factual -- a
7 proffer, which we agree is truthful and meets the elements of
8 the offenses. The Defendant also understands that the
9 Government may present evidence at future proceedings that his
10 criminal conduct was more extensive than I'm going to describe
11 at this time, Your Honor. But this is -- these facts are
12 accurate and do meet the elements of the offense.

13 In the first case, Your Honor, this case involves the
14 Payroll Protection Program and the Economic Injury Disaster
15 Loan program. Those programs are described in Paragraphs 1
16 through 9 of the general allegations of the superseding
17 Indictment, and the parties agree that those general
18 allegations accurately describe those programs.

19 Turning to the Defendant's conduct, beginning no later
20 than in or around May or June of 2020, and continuing through
21 no earlier than in or around June of 2021, Mr. Philossaint
22 assisted numerous conspirators to submit fraudulent
23 applications for PPP loans and EIDLs on behalf of businesses
24 owned and controlled by the conspirators.

25 At first, Mr. Philossaint carried out this scheme by

1 working for a company identified in the factual proffer as
2 Company 1, which was operated by Conspirator 1. Later,
3 Mr. Philossaint began working for himself in carrying out the
4 same scheme.

5 Mr. Philossaint prepared loan applications for the
6 conspirator business owners and caused the applications to be
7 sent to his conspirators to digitally sign and electronically
8 submit to various financial institutions and to the Small
9 Business Administration. The application contained material
10 misrepresentations about the businesses, such as substantial
11 overstatement of the businesses' gross revenues, the number of
12 employees and the average monthly payroll.

13 Based on the fraudulent applications, various private
14 financial institutions and the SBA loaned money, generally
15 hundreds of thousands of dollars, to the conspirator's
16 businesses.

17 Mr. Philossaint later prepared -- later prepared
18 applications on behalf of the conspirator businesses for
19 forgiveness of the PPP loans. These applications falsely
20 stated that the businesses had met the preconditions of loan
21 forgiveness by using the loans to pay payroll and/or for other
22 permissible expenses.

23 Could I have a minute to consult with Defense counsel,
24 Your Honor? I just see him reacting in a manner that suggests
25 there could be an issue.

1 THE COURT: Sure.

2 (Pause in proceedings.)

3 MR. OSBORNE: Thank you, Your Honor. I'll continue.

4 Automatic Data Processing, Incorporated, also known --
5 or commonly known as ADP, provided payroll and other services
6 to other businesses. Conspirator 1 and/or Mr. Philossaint
7 opened ADP accounts on behalf of their conspirators with
8 themselves, Conspirator 1 and Mr. Philossaint, as the account
9 administrators. It caused ADP to make payments purportedly for
10 payroll to individuals with the loan proceeds.

11 Although these individuals either do not work for the
12 loan recipients or were not entitled to payroll in the amounts
13 paid, Mr. Philossaint attempted to obtain and use ADP records
14 to support the applications for loan forgiveness.

15 Brianna Monique Gayle, a codefendant in this case, had
16 previously worked for a subsidiary of ADP. During the
17 conspiracy, she worked as an assistant for Mr. Philossaint.
18 Records obtained from ADP show that Gayle, while working for
19 Mr. Philossaint, contacted ADP on multiple occasions between
20 May 2021 and April 2022.

21 Ms. Gayle contacted ADP to manage payroll accounts
22 enrolled by one of the Defendant's businesses, such as adding
23 or removing accounts. Ms. Gayle also contacted ADP to retrieve
24 payroll documents and W-2s for the payroll accounts.

25 Ms. Gayle called ADP on January 26, 2022, and

1 conferenced Mr. Philossaint into the call. They stated that
2 their entire client list should have been terminated as going
3 out of business and, therefore, should have received W-2s for
4 2021. Ms. Gayle continued to make calls to ADP on behalf of
5 the companies enrolled by the Defendant's business to obtain
6 W-2s.

7 Shortly after the conspirator business owners received
8 their loan proceeds, they paid either Conspirator 1 or
9 Mr. Philossaint a fee of approximately 10 percent of the value
10 of the loans. In many cases, the fee was paid to shell
11 companies that Mr. Philossaint controlled, which did no true
12 business, or inaccurate notations were made on the checks or
13 other incidents of payment. These payments were made from and
14 to financial institutions; that is, banks, the deposits of
15 which were insured by the Federal Deposit Insurance
16 Corporation.

17 Mr. Philossaint assisted codefendants and conspirators
18 to apply for fraudulent loans and apply for such loans himself.
19 The conspirators applied for loans on behalf of: Ms. Gayle,
20 applying as a sole proprietor; The Cinda Foundation,
21 Incorporated; DDZ Family Enterprises, LLC; Ferro's
22 Entertainment and Production, LLC; JREAM Vision TV, LLC; One
23 Solution Group, LLC; Royal Elite Trans, LLC; Sunrise City
24 Construction Development, LLC; Unfold Perception, LLC, and
25 other businesses.

1 Based on these applications, lenders and the SBA paid
2 at least \$2,020,328.17 in loans to which the conspirators were
3 not entitled. The conspirators who received these loans paid
4 Mr. Philossaint approximately 10 percent of the value of the
5 loans.

6 The fraudulent PPP and EIDL applications involved in
7 this scheme were submitted electronically to servers located
8 outside of Florida. Mr. Philossaint and most of the other
9 conspirators resided and worked in the Southern District of
10 Florida and submitted their applications from this district.

11 The applications for PPP loans submitted by Unfold
12 Perception, LLC, are a representative example of the scheme and
13 conspiracy. Unfold Perception was a Florida limited liability
14 company. It was organized on May 28th, 2019. Codefendant
15 Regine Rene was the sole managing member. Unfold's principal
16 place of business was in West Palm Beach, Florida.

17 On June 18, 2020, Unfold applied for a PPP loan. The
18 loan application was digitally signed by Ms. Rene. The
19 application was electronically submitted to Celtic Bank servers
20 which were located in Utah. The application stated that Unfold
21 had three employees and average monthly payroll of \$32,781.66.
22 For the 12 months preceding this application, records of
23 Unfold's bank account revealed that the company had gross
24 revenue of approximately \$10,000 and no payroll.

25 A copy of an IRS Form 941, Employer's Quarterly Tax

1 Returns, was submitted with the application. This form
2 appeared to corroborate the payroll figure on the application.
3 However, Unfold did not submit the form to the IRS. Based on
4 this application, on June 22, 2020, Celtic Bank transferred a
5 PPP loan to Unfold's Wells Fargo bank account in the amount of
6 \$81,954.

7 Trust Alliance Enterprises, Incorporated, was a
8 Florida corporation. It was incorporated on June 15, 2020.
9 Conspirator 1 was the sole officer. On June 25, 2020, Ms. Rene
10 signed a check from the Unfold bank account made out to Trust
11 Alliance Enterprises in the amount of \$10,654.02.

12 On June 30, 2020, eight days after Unfold received its
13 PPP loan, a payroll account was created at ADP for Unfold.
14 Conspirator 1 was the primary contact. From July through
15 December 2020, using proceeds of the PPP loan, Unfold paid
16 \$49,172.24 in payments purportedly for payroll via ADP,
17 including \$29,999.97 to Ms. Rene.

18 On February 22, 2021, Unfold applied for a second PPP
19 loan. The application was electronically transmitted to Celtic
20 Bank's servers which were located in Utah. The application
21 stated that Unfold had three employees, an average monthly
22 payroll of \$32,781. For the 12 months preceding this
23 application, Unfold had gross revenues of approximately
24 \$24,000, not including the PPP and EIDL funds, and payroll of
25 \$2,300, not including the ADP payments I just described.

1 A copy of the same IRS Form 941 that had accompanied
2 Unfold's previous application, which had not been submitted to
3 the IRS, was submitted with this new application. Based on
4 this application, on February 23, 2021, Celtic Bank transferred
5 a PPP loan to Unfold's Wells Fargo bank account in the amount
6 of \$81,952.

7 Dad Money Investment Group, LLC, and Elite
8 International Venture Capital, LLC, were Florida limited
9 liability companies. They were both organized on July 6th,
10 2020. Mr. Philossaint was the president of Dad Money. Dad
11 Money was Elite International's sole managing member. The
12 companies' principal places of business were two different
13 suites in the same office building in Hallandale Beach,
14 Florida.

15 On March 5, 2021, Ms. Rene signed a check from the
16 Unfold's Wells Fargo bank account made out to Elite
17 International Venture Capital in the amount of \$5,597, which is
18 somewhat less than 10 percent of the amount of Unfold's second
19 PPP loan. In the memo line of the check written was the word
20 "accounting."

21 On May 6th, 2021, Unfold opened a new ADP account.
22 Mr. Philossaint was the only authorized firm representative
23 listed on the account. From May through August 2021, using
24 proceeds of the second PPP loan, Unfold paid \$49,194.05 in
25 payments purportedly for payroll via ADP, including \$30,044.28

1 to Ms. Rene. The last payment was made on August 25, 2021.

2 On August 6th, 2021, Ms. Rene sent Mr. Philossaint a
3 voice recording over WhatsApp. She stated that she was,
4 Wondering when is the last date of the payroll so that I can
5 call them so they can pause it. Please let me know.

6 On August 18, 2021, Ms. Rene wrote to Mr. Philossaint
7 by WhatsApp, Please inform me of when the date payroll ends. I
8 believe it has been six months. Law enforcement agents
9 subsequently recovered these messages from Mr. Philossaint's
10 phone.

11 On May 24, 2021, Unfold applied for forgiveness of its
12 first PPP loan. The application claimed that Unfold had three
13 employees at the time of the application and that Unfold had
14 spent \$49,172.24 of the loan on payroll expenses. As a result
15 of Unfold's application, the loan was forgiven.

16 On September 8, 2021, Unfold applied for forgiveness
17 of its second PPP loan. The application claimed that Unfold
18 had three employees at the time of the application and that
19 Unfold had spent \$49,761.07 of the loan on payroll expenses.
20 As a result of Unfold's application, that loan was also
21 forgiven.

22 I'll turn now, Your Honor, to the facts involved in
23 Count 3. Royal Elite Trans, LLC, was a Florida limited
24 liability company. Mr. Philossaint was the sole managing
25 member. Its principal place of business changed several times

1 but was always in Miami-Dade or Broward County, Florida.

2 Mr. Philossaint was the only signatory on Royal Elite Trans's
3 bank accounts.

4 On April 1, 2020, Royal Elite Trans applied for an
5 EIDL. The application was electronically transmitted to the
6 servers of the Small Business Administration which were located
7 outside of Florida. The application required Royal Elite Trans
8 to describe its detailed business activity. The application
9 listed limousine and transportation as the detailed business
10 activity.

11 SBA initially declined the application, but
12 Mr. Philossaint requested reconsideration of that decision and
13 administratively appealed it and eventually the loan was
14 granted.

15 On December 16, 2021, Mr. Philossaint electronically
16 signed a loan authorization and agreement with the Small
17 Business Administration. The agreement included the
18 requirement that borrow -- open quote -- begin quote, Borrower
19 will use all of the proceeds of this loan solely as working
20 capital to alleviate economic injury caused by disaster
21 occurring in the months of January 31, 2020, and continuing
22 thereafter.

23 On December 21, 2021, SBA transferred an EIDL to Royal
24 Elite Trans's Bank of America checking account in the amount of
25 \$289,400. Mr. Philossaint was the only signatory on this

1 account.

2 Royal Elite Trans had not, in fact, suffered economic
3 injury in 2020. Royal Elite Trans's bank records indicate that
4 the company's gross revenue increased from 136,766.93 in 2019
5 to \$237,755.07, excluding PPP and EIDL funds. The records
6 contain no indication that Royal Elite Trans operated a
7 limousine or similar transportation business and no indication
8 that Royal Elite Trans paid any significant business expenses.

9 An attorney's Interest on Trust Account is an
10 interest-bearing trust account used by members of the Florida
11 Bar to hold nominal or short-term funds in trust for a client
12 or third party when it would not be feasible to earn income on
13 the funds for the client or third party. The income on an
14 Interest on Trust Account benefits charitable causes designated
15 by the Florida Bar.

16 Tollinchi Law, PA, was a Florida corporation engaged
17 in the practice of law. The sole officer was Mariel Tollinchi,
18 a codefendant in this case. Ms. Tollinchi was an attorney and
19 was in a romantic relationship with Mr. Philossaint. Tollinchi
20 Law maintained an Interest on Trust Account at Chase Bank.

21 On December 22, 2021, two checks were written from the
22 Royal Elite Trans account: One for Tollinchi Law for \$34,000
23 and the other to Ms. Tollinchi personally for \$6,573.63.

24 On January 5, 2022, \$26,371.30 was wired from Royal
25 Elite Trans's Bank of America checking account to Tollinchi

1 Law's Interest on Trust Account. On January 6, 2022, Tollinchi
2 Law wired the same sum, \$26,371.30, from the same account to an
3 account in the Dominican Republic. The notation associated
4 with the wire read, Joff Philossaint real estate purchase.

5 On January 20, 2022, the same Royal Elite Trans
6 account wired \$190,000 to the same Tollinchi Law account.

7 On January 25, 2022, Tollinchi Law wired \$200,000 from
8 the same account -- that is, its Interest on Trust Account --
9 to an account in the Dominican Republic. The notation
10 associated with the wire included Joff Philossaint's name and
11 the words "real estate." Royal Elite Trans's bank records
12 contained no indication that its business involved real estate
13 transactions before it obtained its EIDL.

14 Before the EIDL, or Economic Injury Disaster Loan, was
15 deposited in Royal Elite Trans's Bank of America account, the
16 balance in the account was approximately \$2,000. Between the
17 time of the deposit of that loan and the wire of January 20,
18 2022, that I've just described, the account received
19 approximately \$31,650 in deposits. Therefore, Royal Elite
20 Trans could not have transferred the funds to Tollinchi Law as
21 described above without the Economic Injury Disaster Loan.

22 Wells Fargo, Bank of America and Chase Bank were
23 financial institutions; that is, banks the deposits of which
24 were insured by the Federal Deposit Insurance Corporation.

25 THE COURT: All right.

1 Mr. Philossaint, did you hear what the Government has
2 said?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: And do you agree that it's a true and
5 correct statement of what the prosecutor has said?

6 THE DEFENDANT: I have objections, Your Honor.

7 THE COURT: All right. What objections or changes
8 would you like to address?

9 (Pause in proceedings.)

10 MR. GOLDSTEIN: Your Honor, if I may?

11 THE COURT: Sure.

12 MR. GOLDSTEIN: Two minor things. On the top of the
13 second page on the factual proffer where it says, Was operated
14 by Conspirator 1. Later, Philossaint began working for himself
15 in carrying out the same scheme, he is saying that he was
16 always working under Conspirator 1. I don't think that that
17 has any effect on the -- on any of the elements of the crime.

18 THE COURT: All right.

19 MR. GOLDSTEIN: So we're asking to strike that.

20 THE COURT: I won't strike it. It will be a note --
21 it will be noted for the record, his objection to it.

22 MR. GOLDSTEIN: Okay. And finally, in Paragraph 26,
23 the Government makes reference to the Bank of America account
24 in which there were \$2,039.50. Mr. Philossaint would add that
25 he had actually three different accounts for that business, not

1 just that one account.

2 THE COURT: All right. Anything else?

3 MR. GOLDSTEIN: That's it, Your Honor.

4 THE COURT: All right. Mr. Goldstein, do you -- or
5 are you satisfied with your client's understanding of his
6 rights and what he's giving up today?

7 MR. GOLDSTEIN: Yes, Your Honor.

8 THE COURT: And are you satisfied that there has been
9 a sufficient statement, a factual basis, with regards to Count
10 1, 2 and 3 of the Indictment?

11 MR. GOLDSTEIN: I do.

12 THE COURT: All right.

13 Mr. Philossaint, how do you now plead to the charges
14 set fort in Counts 1, 2 and 3 of the Indictment? Guilty or not
15 guilty?

16 THE DEFENDANT: Guilty.

17 THE COURT: It is the finding of this Court in this
18 case that the Defendant, Joff Stenn Wroy Philossaint, is fully
19 competent and capable of entering an informed plea and that
20 Joff Stenn Wroy Philossaint is aware of the nature of the
21 charges and the consequences of the plea based upon his
22 conversations with his attorney and the colloquy before the
23 Court and that the plea of guilty is a knowing, intelligent and
24 voluntarily plea supported by an independent basis in fact
25 containing each of the essential elements of the offense.

1 The Court finds that the plea presented to the Court
2 was voluntarily entered into and the plea was not entered as a
3 result of force, threats or coercion. I also find that the
4 plea has been entered into with the advice and assistance of
5 effective and competent counsel.

6 The plea is, therefore, accepted. And the Defendant,
7 Joff Stenn Wroy Philossaint, is now adjudged guilty of the
8 offense charged in Counts 1, 2 and 3 of the Indictment and a
9 judgment of guilty is now entered as to Counts 1, 2 and 3.

10 Mr. Philossaint, prior to sentencing, sir, a probation
11 officer will be contacting you to inquire about matters that
12 will be included in your PSI report, which is the presentence
13 investigation report. And at that time, you will meet with the
14 probation officer. Your attorney may be with you, if you wish.

15 And you will be given a copy of the report. You will
16 have an opportunity of filing objections or requests associated
17 with it, and at your sentencing hearing, I will hear and decide
18 all of those matters. And at that time, I should hear from
19 you, if you wish, to make a statement on your own behalf and
20 also from anyone else who wishes to come to court to talk to
21 you.

22 Do you understand that, Mr. Philossaint?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: All right.

25 Patricia, order the presentence investigation report

1 and set a sentencing date for Mr. Philossaint, please.

2 THE COURTROOM DEPUTY: Yes, Judge. Sentencing will be
3 Wednesday, January 25th, at 9 a.m.

4 THE COURT: All right.

5 Did you hear what she said, Mr. Philossaint?

6 THE DEFENDANT: Yes, Your Honor.

7 MR. GOLDSTEIN: Your Honor, if I may. We still have
8 the fourth count to try.

9 THE COURT: Yes.

10 MR. GOLDSTEIN: So we're going to do the sentencing
11 before the trial?

12 THE COURT: Well, we don't know. If he's acquitted,
13 it doesn't matter, right?

14 MR. GOLDSTEIN: Right. But if he's convicted --

15 THE COURT: He can wait until the PSI perhaps comes
16 from that as well, if that's the case.

17 MR. GOLDSTEIN: Okay.

18 THE COURT: All right. So I'll leave this subject to
19 the outcome of the case. Right now, he's presumed innocent.
20 He's -- all right?

21 MR. GOLDSTEIN: I agree. This is one case I think it
22 should travel together.

23 THE COURT: All right. It depends what happens at the
24 trial, or we can adjust that, okay?

25 MR. GOLDSTEIN: Okay. May I address tomorrow's

1 calendar call briefly?

2 THE COURT: Sure.

3 MR. GOLDSTEIN: I know we're set for a phone calendar
4 call tomorrow. We originally had a plea on all four counts, so
5 we joined in that motion to continue. But I would join in it
6 to -- understanding that it's already been denied. I am
7 starting a trial Wednesday before Judge Middlebrooks.

8 THE COURT: Which one? This Wednesday?

9 MR. GOLDSTEIN: This Wednesday. Yes, sir.

10 THE COURT: Okay. How long is that trial?

11 MR. GOLDSTEIN: That -- I think it's probably going to
12 run four to five days. So, you know, up into Thanksgiving.

13 THE COURT: All right. And if that's the case, we'll
14 address that and it won't be a problem. So we have more than
15 one week to go try the case.

16 MR. GOLDSTEIN: We are not. Okay.

17 THE COURT: All right.

18 MR. GOLDSTEIN: I just wanted to make sure.

19 THE COURT: Okay.

20 MR. GOLDSTEIN: All right. Thank you, Your Honor.

21 THE COURT: All right. Is there anything else from
22 the Government we need to hear?

23 MR. OSBORNE: No. Thank you, Your Honor.

24 THE COURT: All right. Have a good day.

25 MR. GOLDSTEIN: Thank you, Your Honor.

1 THE COURT: Also, Mr. Goldstein, your case is
2 definitely going to trial with Mr. Middlebrooks, or you don't
3 know?

4 MR. GOLDSTEIN: Yes, Your Honor. It's a two-defendant
5 case. The defendants just turned down a misdemeanor plea
6 and --

7 THE COURT: Okay.

8 MR. GOLDSTEIN: -- I'll be going to trial.

9 THE COURT: When trying misdemeanors, I've had cases
10 go to trial too, so I've had my share. I get it.

11 MR. GOLDSTEIN: It's not getting any better than that,
12 and the Defendants have rejected that offer, so we totally
13 expect to pick a jury on Wednesday.

14 THE COURT: All right. Fine. Thank you.

15 MR. OSBORNE: Thank you, Your Honor. Thank you,
16 Judge.

17 THE COURT: Thank you.

18 (The proceedings concluded at 12:52 p.m.)
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C E R T I F I C A T E

I hereby certify that the foregoing is an
accurate transcription of the proceedings in the
above-entitled matter.

01/15/2023
DATE



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